

Message Text

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ACTION IO-10

INFO OCT-01 AF-06 ARA-06 EA-06 EUR-12 NEA-09 ISO-00

CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 NSCE-00 SSO-00 USIE-00

INRE-00 OIC-02 /089 W

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O R 120819Z FEB 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC IMMEDIATE 4771

INFO USMISSION USUN

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E.O. 11652: N/A

TAGS: UN, PFOR, SZ, VT

SUBJECT: UN CONFERENCE ON THE REPRESENTATION OF STATES IN THEIR
RELATIONS WITH INTERNATIONAL ORGANIZATIONS (RSIO):
OBSERVER MISSIONS

1. SUMMARY. ISSUE OF OBSERVER MISSION STATUS VIS-A-VIS
PERMANENT MISSION STATUS WAS JOINED EARLY IN CONFERENCE
ON ARTICLE 7 (FUNCTION OF THE PERMANENT OBSERVER MISSION).
ONLY ONE DEL (AUSTRALIA) SPOKE IN FAVOR OF BASIC US
APPROACH, AND EVEN US COMPROMISE PROPOSAL CONVINCINGLY
REJECTED. CONFERENCE TENDENCY IS CLEARLY TO TREAT
OBSERVER AND PERMANENT MISSIONS ESSENTIALLY IN
PARALLEL, AND TO VIEW US POSITION AS CONTRARY TO
PROGRESSIVE DEVELOPMENT INTERNATIONAL LAW. SWITZERLAND
SPOKE AT LENGTH IN OPPOSITION US APPROACH. GUIDANCE REQUESTED.
END SUMMARY.

2. ON TUESDAY, FEB. 11, COMMITTEE OF THE WHOLE TOOK
UP ARTICLE 7 (FUNCTIONS OF THE PERMANENT OBSERVER
MISSION, SEE A/8410/REV.1). ONLY AMENDMENTS TABLED
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ON ARTICLE 7 WERE BY US (L.22) AND SPAIN (L.3). US

AMENDMENT DEALT WITH TWO ISSUES: (A) REVISION SUBPARA 7(A) SO AS TO DELETE REFERENCE TO "REPRESENTATION", AND EMPHASIZE "OBSERVER" NATURE OF OBSERVER MISSIONS; AND, (B) DELETION REFERENCE THAT OBSERVER MISSIONS "WHEN REQUIRED, NEGOTIATE" WITH IOS. SPANISH AMENDMENT WAS OPPOSITE APPROACH, DELETING REFERENCE TO "WHEN REQUIRED", THEREBY AVERRING NEGOTIATION AS NORMAL PRACTICE OF OBSERVERS.

3. US DEL INTRODUCED AMENDMENTS IN LOW KEY FASHION, NOTING THAT ARTICLE 7 DID NOT PROPERLY REFLECT TRUE FUNCTION OF OBSERVER MISSIONS, NAMELY, TO OBSERVE ACTIONS OF IO AND REPORT THEREON TO SENDING STATE. FYI. US LOW KEY STATEMENT WAS MOTIVATED BY DESIRE CONTINUE EFFORTS COMPROMISE WITH SWISS WHO UP UNTIL TIME INTRODUCTION OF US STATEMENT EXPRESSED AGREEMENT IN PRINCIPLE TO COOPERATE IN SPITE OF DIVERGENT VIEWS ON OBSERVERS. END FYI. AUSTRALIAN DEL WAS FIRST, AND ONLY RPT ONLY, DEL TO SPEAK IN SUPPORT OF US.

4. US DEL, AND UNDOUBTEDLY ENTIRE COMMITTEE, WERE SURPRISED BY FIRST VOICE IN OPPOSITION, WHICH WAS EXTREMELY LENGTHY AND PASSIONATE HOLY SEE RPT HOLY SEE STATEMENT AGAINST US POSITION, AND IN FAVOR OF SPANISH AMENDMENT. IN BRIEF, HOLY SEE SAID OBSERVER MISSIONS REPRESENTED STATES IN IOS AND OFTEN NEGOTIATED FOR SENDING STATE. THEREAFTER (IVORY COST, INDIA, PERU, SPAIN, MADAGASCAR, VENEZUELA, SOVIET BLOC) NUMEROUS DELS ASSOCIATED THEMSELVES WITH HOLY SEE IN REJECTING US GENERAL APPROACH. SOUTH KOREA PREFERRED ILC TEXT TO US AMENDMENTS. SWISS GAVE LENGTHLY ARGUMENT, STATING INTER ALIA, THAT ITS OBSERVER MISSION IN NEW YORK REPRESENTED SWITZERLAND AND OFTEN ENGAGED IN NEGOTIATIONS FOR SWITZERLAND. ACKNOWLEDGING SOME DIFFERENCES BETWEEN PERMANENT AND OBSERVER MISSIONS, SWISS, NONETHELESS, STATED OBSERVER MISSIONS SHOULD RECEIVE VIRTUALLY SAME TREATMENT AS PERMENENT MISSION BECAUSE THEIR FUNCTIONS WERE SO SIMILAR. MANY OF DELS SUPPORTING HOLY SEE, SPECIFICALLY SUPPORTED SWISS VIEWS AS WELL. LIMITED OFFICIAL USE

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5. US DEL HAD BEEN NEGOTIATING WITH SWISS BEFORE AND DURING SESSION, UTILIZING UK DEL AT TIMES AS INTERMEDIARY. NEAR END OF DEBATE US DEL DECIDED TO ADVANCE CLEAR COMPROMISE PROPOSAL WHICH UKDEL INITIATED AND SWISS PROVISIONALLY INDICATED WAS NOT RPT NOT UNACCEPTABLE. ORIGINAL US PROPOSAL FOR 7(A) WOULD HAVE SUBSTITUTED FOR 7(A) FOLLOWING PARA:

"OBSERVING, ON BEHALF OF THE SENDING STATE,
THE ACTIVITIES OF THE ORGANIZATION, AND
MAINTAINING LIASON WITH THE ORGANIZATION".

AMENDED PROPOSAL WHICH US ADVANCED ADDED AT END OF
PRECEDING FOLLOWING CLAUSE:

"AND, AS APPROPRIATE, REPRESENTING THE
INTERESTS OF THE SENDING STATE IN ITS
RELATIONS WITH AND WITHIN THE ORGANIZATION."

US DEL EXPLAINED PROPOSAL AS SERIOUS COMPROMISE
EFFORT WHICH SEEMED RESPONSIVE COMMENTS ALL DELS.

6. IN STATEMENT BEFORE COMMITTEE SWISS SAID AMENDED
US APPROACH WAS CLOSER REFLECTION OF PROPER SITUATION
THAN FIRST US PROPOSAL, BUT THAT ILC TEXT WAS BETTER.
FYI. REPORT FROM CANADIAN DEL WHO ASKED SWISS VIEW
ON AMENDED US PROPOSAL WAS THAT SWISS TOLD HIM THAT
WHILE PROPOSAL APPEARED TO SATISFY SWISS NEEDS,
SWISS WOULD OPPOSE US PROPOSAL, EVEN AS AMENDED,
SINCE MAJORITY CLEARLY IN FAVOR EXPANDED (I.E. ILC)
TREATMENT FOR OBSERVERS. END FYI. SEVERAL DELS
(SPAIN, PERU, CAMEROON, HOLY SEE) TOOK FLOOR TO
OPPOSE US AMENDED PROPOSAL.

7. US AMENDED PROPOSAL TO ARTICLE 7(A) WAS REJECTED
BY VOTE 13 (US, ISRAEL, JAPAN, GRVN, NETHERLANDS,
THAILAND, SWEDEN, CANADA, UK, AUSTRALIA)-37-13. US
AMENDMENT TO ARTICLE 7(C) WAS NOT VOTED ON SINCE IN

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ACTION IO-10

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CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00

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LIGHT EXPERT CONSULTANT EL-ERIAN COMMENTS, US
HAD WITHDRAWN IN FAVOR ILC "WHEN REQUIRED" TREATMENT.
HOWEVER, THEREAFTER COMMITTEE PROCEEDED ADOPT SPANISH
PROPOSAL DELETE "WHEN REQUIRED" BY VOTE 29-12(US)-23
ILC TEXT, AS AMENDED BY SPAIN, WAS THEN ADOPTED,
60-0-5(US, CANADA, THAILAND, AUSTRALIA).

8. COMMENT: IT WAS CLEAR FROM EARLY WEO CONSULTA-
TIONS, INCLUDING PARIS COUNCIL OF EUROPE CONSULTATIONS,
THAT US WOULD NOT HAVE MEANINGFUL WEO SUPPORT FOR
OUR GENERAL APPROACH TO OBSERVER MISSION QUESTIONS
(I.E. RE: MISSION FUNCTIONS, AND PRIVILEGES AND
IMMUNITIES OF PERSONNEL) AND THAT THERE WOULD BE STRONG
SWISS OPPOSITION. FIRST WEEK AND HALF OF CONFERENCE
HAS FULLY CONFIRMED THIS. WE CAN NOW ADD FORMIDABLE
FOE, IN THIS CONTEXT, OF HOLY SEE WHICH WAS NOT RPT NOT
RESTRAINED IN ITS OPPOSITION. IT IS ALSO CLEAR THAT
LEADING SPOKESMEN (AT THIS CONFERENCE) OF REGIONAL
GROUPS OPPOSE GENERAL US APPROACH. EXPERT CONSULTANT
(EL-ERIAN), WHILE PRIVATELY EXPRESSING SOME SYMPATHY
WITH US VIEW, WAS NOT HELPFUL IN HIS COMMENTS FROM
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CHAIR. AN ADDED FACTOR OF LAST TWO OR THREE DAYS IS
LATE ARRIVAL OF VARIOUS LATIN DELS (NOTABLY PERU AND
VENEZUELA) WHO HAVE ESSENTIALLY SET THEMSELVES UP AS
GUARDIANS OF ILC TEXT EXCEPT FOR PARTICULAR POINTS
OF ARCANE JURISPRUDENCE WHOSE RELEVANCE IS GENERALLY
GRASPED ONLY BY THEMSELVES. THEIR GUADIANSHIP IS
HARDLY NECESSARY SINCE ARAB DELS TEND TO SUPPORT
ILC TEXT IN DEFERENCE TO ROLE EL-ERIAN (EGYPT) PLAYED
IN DRAFTING ILC TEXT (NOTE: LATTER ARAB SOLIDARITY FOR
ILC TEXT WAS NOT EVIDENT IN FIRST WEEK OF CONFERENCE,
PROBABLY DUE TO UNPREPARED STATE AND LATE ARRIVAL OF
DELS. RECENTLY, ARABS, LATINS AND AFRICANS HAVE
BEEN MORE VOCAL IN SUPPORT OF ILC TEXT. US DEL
BELIEVES THIS SOLIDARITY WOULD DEFINITELY INCREASE
ON OBSERVER ISSUE.).

9. AS A RESULT, US DEL IS NOT RPT NOT DISPOSED TO
PURSUE OPPOSITION TO ILC TREATMENT OF OBSERVER

MISSIONS. ACCORDINGLY, IN SUCCEEDING DRAFT ARTICLES
US DEL INTENDS NOT RPT NOT GENERALLY DISTINGUISH
BETWEEN TREATMENT OF OBSERVER AND PERMANENT MISSIONS.
IN OUR VIEW, ALTERNATIVE IS TO SEEK TO MODIFY ILC
TREATMENT OF OBSERVER MISSION AND PERSONNEL, AND LOSE
AT EVERY (OR VIRTUALLY EVERY) TURN, AND GAIN ANTIPATHY
OF CONFERENCE, WITH RESPECT OTHER PROPOSALS WE TABLE.
END COMMENT.

10. ACTION: IF DEPT DOES NOT CONCUR ON INTENDED US
APPROACH, KINDLY TRANSMIT, SOONEST, GUIDANCE IN
APPROPRIATE DETAIL. COMMITTEE CHAIRMAN NETTEL
(AUSTRIA) HAS, WITH COMMITTEE CONCURRENCE, PLACED
SHORT TIME LIMITS FOR TABLING PROPOSALS. TIME LIMIT
FOR CRUCIAL PROVISION ON OBSERVER MISSIONS, ARTICLE
28--PERSONAL INVIOABILITY--SHOULD BE ON US WITHIN
24 HOURS. ACCORDINGLY, IF DEPT. DISAGREES WITH
INTENDED US DEL APPROACH, US DEL MUST RECEIVE
GUIDANCE BY 7 P.M., 12 FEB., VIENNA-TIME, OR
BE EFFECTIVELY FORECLOSED FROM RAISING OBSERVER
MISSION ISSUES IN REST OF DRAFT ARTICLES.HUMES

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